

1 Stephen M. Doniger (SBN 179314)
stephen@donigerlawfirm.com
2 Scott A. Burroughs (SBN 235718)
scott@donigerlawfirm.com
3 Trevor W. Barrett (SBN 287174)
tbarrett@donigerlawfirm.com
4 Justin M. Gomes (SBN 301793)
jgomes@donigerlawfirm.com
5 DONIGER / BURROUGHS
6 603 Rose Avenue
7 Venice, California 90291
8 Telephone: (310) 590-1820

9 Attorneys for Plaintiff
10

11 **UNITED STATES DISTRICT COURT**
12 **CENTRAL DISTRICT OF CALIFORNIA**

13 ROYAL PRINTEX, INC., a California
14 Corporation,
15 Plaintiff,

16 v.

17 MK EXPEDITERS EXPORT-IMPORT,
18 INC., a New York corporation; ROSS
19 STORES, INC., a Delaware
20 Corporation; B.B. JEANS, a business
21 entity of form unknown; and DOES 1
22 through 10,
23 Defendants.

Case No.:

PLAINTIFF'S COMPLAINT FOR:

1. COPYRIGHT INFRINGEMENT;
2. VICARIOUS AND/OR CONTRIBUTORY COPYRIGHT INFRINGEMENT

Jury Trial Demanded

24
25 Plaintiff ROYAL PRINTEX, INC., by and through its undersigned attorneys,
26 hereby prays to this honorable Court for relief as follows:
27

1 otherwise, of Defendants 1 through 10, inclusive, are presently unknown to Plaintiff,
2 which therefore sues said Defendants by such fictitious names, and will seek leave to
3 amend this Complaint to show their true names and capacities when same have been
4 ascertained.

5 6. Plaintiff is informed and believes and thereon alleges that at all times
6 relevant hereto each of the Defendants was the agent, affiliate, officer, director,
7 manager, principal, alter-ego, and/or employee of the remaining Defendants and was
8 at all times acting within the scope of such agency, affiliation, alter-ego relationship
9 and/or employment; and actively participated in or subsequently ratified and
10 adopted, or both, each and all of the acts or conduct alleged, with full knowledge of
11 all the facts and circumstances, including, but not limited to, full knowledge of each
12 and every violation of Plaintiff's rights and the damages to Plaintiff proximately
13 caused thereby.

14 **CLAIM RELATED TO DESIGN R8821**

15 7. Prior to the conduct complained of herein, Plaintiff composed an original
16 two-dimensional artwork for purposes of textile printing, which is set forth
17 hereinbelow. It allocated this artwork Plaintiff's internal design number R8821
18 (hereinafter the "Subject Design"). This artwork was a creation of Plaintiff and/or
19 Plaintiff's design team, and is, and at all relevant times was, owned exclusively by
20 Plaintiff.

21 8. Plaintiff applied for and received a United States Copyright Registration
22 for the Subject Design.

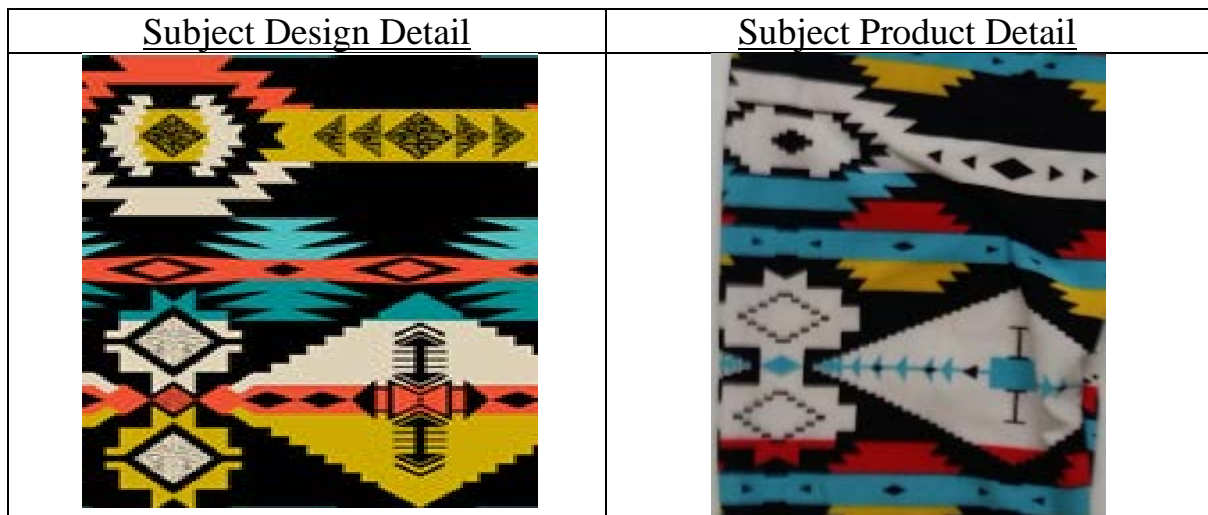
23 9. Prior to the acts complained of herein, Plaintiff sampled and sold fabric
24 bearing Subject Design to numerous parties in the fashion and apparel industries. A
25 true and correct image of the Subject Design is presented below:
26
27
28

Subject Design



10. Plaintiff is informed and believes and thereon alleges that, following this distribution of fabric bearing Subject Design, MK, BB JEANS, ROSS, and certain DOE Defendants created, sold, manufactured, caused to be manufactured, imported and distributed fabric and/or garments comprised of fabric bearing an unauthorized reproduction of Subject Design (“Subject Product”). Such Subject Products include but are not limited to ROSS garments sold under, *inter alia*, Style No. D1264 C3259. Such Subject Product bore the “B.B. Jeans” label, and identifying information indicating said garments were manufactured by, caused to be manufactured by, or

supplied to BB JEANS and MK. Comparisons of the Subject Design and the design on the Subject Product, and comparisons of certain details from these designs, are set forth below:



11. A comparison of the Subject Design and the non-exclusive exemplar of Subject Product makes apparent that the elements, composition, colors, arrangement, layout, and appearance of the designs are substantially similar.

FIRST CLAIM FOR RELIEF

(For Copyright Infringement – Against All Defendants, and Each)

12. Plaintiff is informed and believes and thereon alleges that Defendants, and each of them, had access to Subject Design, including, without limitation, through (a) access to Plaintiff's showroom and/or design library; (b) access to illegally distributed copies of the Subject Design by third-party vendors and/or DOE Defendants, including without limitation international and/or overseas converters and printing mills; (c) access to Plaintiff's strike-offs and samples, and (d) garments manufactured and sold to the public bearing some of the many yards of the lawful fabric provided by Unicolors to its customers. Access is also established by the striking similarity between the designs at issue.

13. Plaintiff is informed and believes and thereon alleges that one or more of the Defendants manufactures garments and/or is a garment vendor. Plaintiff is further informed and believes and thereon alleges that said Defendant(s) has an ongoing business relationship with Defendant retailers, and each of them, and supplied garments to said retailer, which garments infringed the Subject Design in that said garments were composed of fabric which featured unauthorized print design(s) that were identical or substantially similar to the Subject Design, or were an illegal derivation or modification thereof.

14. Plaintiff is informed and believes and thereon alleges that Defendants, and each of them, infringed Plaintiff's copyright by creating, making, and/or developing directly infringing and/or derivative works from the Subject Design and by producing, distributing and/or selling garments which infringe the Subject Design through a nationwide network of retail stores, catalogues, and through on-line websites.

15. Due to Defendants' acts of infringement, Plaintiff has suffered substantial damages to its business in an amount to be established at trial.

1 16. Due to Defendants' acts of infringement, Plaintiff has suffered general and
2 special damages in an amount to be established at trial.

3 17. Due to Defendants' acts of copyright infringement as alleged herein,
4 Defendants, and each of them, have obtained direct and indirect profits they would
5 not otherwise have realized but for their infringement of the Subject Design. As
6 such, Plaintiff is entitled to disgorgement of Defendants' profits directly and
7 indirectly attributable to Defendants' infringement of the Subject Design in an
8 amount to be established at trial.

9 18. Plaintiff is informed and believes and thereon alleges that Defendants, and
10 each of them, have committed acts of copyright infringement, as alleged above,
11 which were willful, intentional and malicious, which further subjects Defendants,
12 and each of them, to liability for statutory damages under Section 504(c)(2) of the
13 Copyright Act in the sum of up to one hundred fifty thousand dollars (\$150,000) per
14 infringement. Within the time permitted by law, Plaintiff will make its election
15 between actual damages and statutory damages.

16 **SECOND CLAIM FOR RELIEF**

17 (For Vicarious and/or Contributory Copyright Infringement - Against All
18 Defendants)

19 19. Plaintiff repeats, realleges, and incorporates herein by reference as though
20 fully set forth, the allegations contained in the preceding paragraphs of this
21 Complaint.

22 20. Plaintiff is informed and believes and thereon alleges that Defendants
23 knowingly induced, participated in, aided and abetted in and profited from the illegal
24 reproduction and subsequent sales of garments featuring the Subject Design as
25 alleged herein.

26 21. Plaintiff is informed and believes and thereon alleges that Defendants, and
27 each of them, are vicariously liable for the infringement alleged herein because they

1 had the right and ability to supervise the infringing conduct and because they had a
2 direct financial interest in the infringing conduct.

3 22. By reason of the Defendants', and each of their, acts of contributory and
4 vicarious infringement as alleged above, Plaintiff has suffered and will continue to
5 suffer substantial damages to its business in an amount to be established at trial, as
6 well as additional general and special damages in an amount to be established at
7 trial.

8 23. Due to Defendants', and each of their, acts of copyright infringement as
9 alleged herein, Defendants, and each of them, have obtained direct and indirect
10 profits they would not otherwise have realized but for their infringement of the
11 Subject Design. As such, Plaintiff is entitled to disgorgement of Defendants' profits
12 directly and indirectly attributable to Defendants' infringement of the Subject
13 Design, in an amount to be established at trial.

14 24. Plaintiff is informed and believes and thereon alleges that Defendants, and
15 each of them, have committed acts of copyright infringement, as alleged above,
16 which were willful, intentional and malicious, which further subjects Defendants,
17 and each of them, to liability for statutory damages under Section 504(c)(2) of the
18 Copyright Act in the sum of up to one hundred fifty thousand dollars (\$150,000) per
19 infringement. Within the time permitted by law, Plaintiff will make its election
20 between actual damages and statutory damages.

21 **PRAYER FOR RELIEF**

22 Wherefore, Plaintiff prays for judgment as follows:

23 **Against All Defendants**

24 **25. With Respect to Each Claim for Relief**

- 25 a. That Defendants, each of them, and their agents and employees be
26 enjoined from infringing Plaintiff's copyrights in any manner,
27 specifically those for the Subject Design;

